

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Accelerating Wireless Broadband Deployment by	)	WT Docket No. 17-79
Removing Barriers to Infrastructure Investment	)	
	)	
Comment Sought on Draft Program Comment for	)	
the Federal Communications Commission's Review	)	
of Collocations on Certain Towers Constructed	)	
without Documentation of Section 106 Review	)	

**COMMENTS OF VERIZON<sup>1</sup>**

Verizon fully supports the Commission's proposal to resolve the "twilight tower" issue that has thwarted wireless deployment for more than a decade. Making these towers available for collocation will both speed deployment and reduce the need for new towers, resulting in less construction, lower costs, and reduced environmental impact. Action on twilight towers – those towers built between March 16, 2001 and March 7, 2005<sup>2</sup> – is long overdue, and the Commission's efforts here to break the logjam will advance wireless broadband deployment. The proposal to exclude from historic preservation review wireless facilities mounted on twilight towers is a sensible solution to free these towers from regulatory limbo and enable additional use of existing infrastructure. Doing so will make those towers available to place new facilities or make significant changes to existing facilities (collectively "collocations") without having to

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<sup>1</sup> The Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

<sup>2</sup> See *Comment Sought on Draft Program Comment for the Federal Communications Commission's Review of Collocations on Certain Towers Constructed without Documentation of Section 106 Review*, Public Notice, WT Docket No. 17-79, FCC 17-165 (Dec. 14, 2017) ("*Program Comment Public Notice*") at 1.

undergo burdensome and costly historic preservation review processes. Those processes are not necessary because collocations on twilight towers under the conditions proposed by the Commission are extremely unlikely to affect historic or tribal properties.

## **I. BACKGROUND**

Twilight towers are towers built between March of 2001 and March of 2005 that lack documentation of historic preservation review; that lack of documentation has precluded wireless carriers from collocating on those towers. The “twilight” period started on March 16, 2001, the date the *Collocation Agreement* was adopted.<sup>3</sup> That agreement, which was negotiated among the Commission, the Advisory Council on Historic Preservation (“ACHP”), and the National Conference of State Historic Preservation Officers, adopted a number of exclusions for wireless facilities. One such exclusion applies to wireless facilities mounted on towers built before the *Collocation Agreement* was adopted. Collocations on towers built after that date are excluded from historic preservation review only if there is documentation that the tower completed the review process.<sup>4</sup>

But the Commission did not adopt the rules and process for conducting historic preservation reviews until the *Nationwide Programmatic Agreement* (“NPA”) took effect on

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<sup>3</sup> See Public Notice, *Wireless Telecommunications Bureau Announces Execution of Programmatic Agreement with Respect to Collocating Wireless Antennas on Existing Structures*, 16 FCC Rcd 5574 (WTB 2001).

<sup>4</sup> See *Wireless Telecommunications Bureau Announces Execution of First Amendment to the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas*, Public Notice, 31 FCC Rcd 8824 (WTB 2016), codified at 47 U.S.C. Part 1, Appendix C, §§ III, IV (“*Collocation Agreement Amendment*”).

March 7, 2005,<sup>5</sup> which marks the end of the “twilight” period. So while many towers built during this four-year period underwent historic preservation review, they generally lack the type of documentation that is generated by reviews under today’s rules and required for collocations on such towers to be excluded. And carriers are unable to place additional wireless facilities on these towers without working on an *ad hoc* basis with Commission staff, state historic preservation officers, and tribes to review each proposed facility.

To remedy this situation and facilitate collocation on these existing towers, the Commission developed a draft “Program Comment” which would exclude collocations on twilight towers that meet certain conditions from historic preservation reviews.<sup>6</sup> The Commission must send the draft Program Comment to the ACHP and request that the ACHP approve and issue the Program Comment before it can take effect.

## **II. DISCUSSION**

The Commission should request ACHP approval of the draft Program Comment for twilight towers without material changes. The draft Program Comment strikes an appropriate balance between facilitating access to long-standing existing towers for collocating wireless broadband facilities and protecting historic and tribal properties from adverse effects. Consumers will benefit from expanded and improved broadband wireless service enabled by new facilities placed on these existing towers. Rural communities will benefit by freeing up existing towers in rural areas for the placement of advanced wireless service facilities that will help

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<sup>5</sup> *Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process*, Report and Order, 20 FCC Rcd 1073 (2004) (codified at 47 C.F.R. Part 1, App’x C).

<sup>6</sup> A Program Comment is a customized alternative historic preservation review process for certain agency activities. *See Program Comment Public Notice* at 3, 36 C.F.R. § 800.14(e).

bridge the digital divide.<sup>7</sup> And all communities will benefit by reducing the need to construct new towers on which to mount these new wireless facilities.<sup>8</sup>

The draft Program Comment is crafted so that eliminating historic preservation reviews for collocations on twilight towers will not increase the risk of effects to historic properties. First, the draft Program Comment would eliminate reviews only for *collocations* on twilight towers. It does not propose any change to the ability of any entity to raise concerns that the tower itself affects a historic property. As is the case today, any person or tribe can initiate a review of the underlying tower by filing a complaint with the Commission backed by substantial evidence that the tower affects a historic property.

Second, towers built during the four-year twilight period generally were reviewed by state historic preservation officers and interested tribes. Verizon's own policy during that time period was to conduct reviews on every tower. These reviews used consultants to determine if any historic properties could be affected by the tower, asked state historic preservation officers ("SHPOs") to review consultant determinations of effect (much like today), and used the best available resources – including SHPOs, local historians, and research – to determine which tribes might have historic properties in the area. Each such tribe was then provided an opportunity to consult on the project. Verizon has heard from other national carriers and tower owners that they followed a similar process. So it is likely that a significant number of twilight towers were

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<sup>7</sup> The Commission's Mobility Fund II auction will make available \$4.5 million to bring mobile broadband service to areas that lack 4G LTE service. Winning bidders would be able to avail themselves of twilight towers to deploy 4G antennas.

<sup>8</sup> *Draft Program Comment for the Federal Communications Commission's Review of Collocations on Certain Towers Constructed without Documentation of Section 106 Review*, attached to *Program Comment Public Notice* ("Draft Program Comment"), at 3.

reviewed for effects on historic properties. Any such effects would have been mitigated before the tower could be built.

Third, given that twilight towers have been standing for more than 12 years, interested parties have had ample time to inform the Commission about any effects that a twilight tower or a collocation on such tower may have on an historic property. But, as the Commission notes, “[i]n the vast majority of cases, no adverse effects from these towers have been brought to the Commission’s attention.”<sup>9</sup>

Fourth, effects on *tribal* historic properties caused by collocations on twilight towers are even less likely. Verizon submitted evidence previously that “[o]f 8,100 requests for tribal review submitted between 2012 and 2015, only 29 (.3 percent) resulted in findings of an adverse effect to tribal historic properties . . . .”<sup>10</sup> So the likelihood of any effect on tribal historic properties from a collocation on an existing tower is extremely small.

And fifth, the draft Program Comment further reduces the likelihood of effects to historic properties by placing conditions on collocations designed to minimize any such effects. These conditions, which mirror the conditions placed on collocations on towers built before March 2001, prevent a collocater from using the exclusion if attaching the new wireless facility increases the height or width of the underlying tower beyond certain limits, involves excavation outside of the property boundaries of the tower, or places excessive new equipment at the base of the tower.<sup>11</sup> The exclusion also would not be available if the underlying tower had previously

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<sup>9</sup> *Id.*

<sup>10</sup> Streamlining *Deployment* of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies, WT Docket No. 16-42, Comments of Verizon (Mar. 8, 2017) at 36.

<sup>11</sup> *Draft Program Comment* at 4-5.

been found to adversely affect a historic property, or if a substantiated complaint alleging an adverse effect had been filed and not yet resolved.<sup>12</sup>

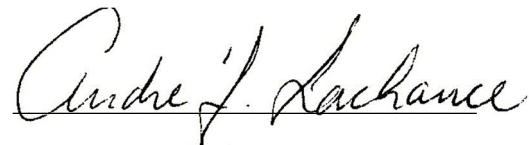
For all of these reasons, the twilight tower exclusion proposed in the draft Program Comment will benefit consumers and communities, particularly rural communities, and is very unlikely to result in an adverse effect on any historic property.

### **III. CONCLUSION**

The Commission should move quickly to request ACHP approval of the draft Program Comment for twilight towers without material changes. The draft Program Comment strikes an appropriate balance between facilitating collocation of broadband wireless facilities on long-standing towers and protecting historic and tribal properties from adverse effects.

Respectfully submitted,

VERIZON

A handwritten signature in black ink that reads "Andre J. Lachance". The signature is written in a cursive, flowing style.

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<sup>12</sup> *Id.*